

MINUTES OF THE
MARICOPA ASSOCIATION OF GOVERNMENTS
TRANSPORTATION POLICY COMMITTEE MEETING

September 15, 2010
MAG Office, Saguaro Room
Phoenix, Arizona

MEMBERS ATTENDING

Mayor Scott Smith, Mesa, Chair	Phil Matthews, Salt River Pima-Maricopa
Councilwoman Peggy Neely, Phoenix,	Indian Community
Vice Chair	* Mayor Jackie Meck, Buckeye
# Mayor Bob Barrett, Peoria	* Vice Mayor Les Presmyk, Gilbert
* Stephen Beard, HDR Engineering, Inc.	Mayor Marie Lopez Rogers, Avondale
Dave Berry, Swift Transportation	David Scholl
* Jed Billings, FNF Construction	* Mayor Elaine Scruggs, Glendale
Mayor James Cavanaugh, Goodyear	Karrin Kunasek Taylor, DMB Properties
Councilmember Jack Sellers, Chandler	Mayor Lyn Truitt, Surprise
Councilmember Shana Ellis, Tempe	Supervisor Max W. Wilson, Maricopa County
Councilmember Dick Esser, Cave Creek	* Victor Flores, State Transportation Board
* Mark Killian, The Killian Company/Sunny	F. Rockne Arnett, Citizens Transportation
Mesa, Inc.	Oversight Committee
# Mayor Jim Lane, Scottsdale	
* Not present	
# Participated by telephone conference call	
+ Participated by videoconference call	

1. Call to Order

The meeting of the Transportation Policy Committee (TPC) was called to order by Chair Scott Smith at 4:00 p.m.

2. Pledge of Allegiance

The Pledge of Allegiance was recited. Chair Smith noted that Vice Chair Peggy Neely, Mayor Bob Barrett and Mayor Jim Lane were participating in the meeting by telephone.

Chair Smith presented a Certificate of Appreciation to Mayor Marie Lopez Rogers for her service as Chair of the Transportation Policy Committee from 2009 to 2010. Chair Smith stated that he

had come to know Mayor Rogers well and he commended her for being an incredible advocate for the region. Mayor Rogers was applauded.

3. Call to the Audience

Chair Smith stated that an opportunity is provided to the public to address the Transportation Policy Committee on items that are not on the agenda that are within the jurisdiction of MAG, or non action agenda items that are on the agenda for discussion or information only. Citizens will be requested not to exceed a three minute time period for their comments. An opportunity is provided to comment on agenda items posted for action at the time the item is heard.

Chair Smith noted that no public comment cards had been turned in.

4. Approval of Consent Agenda

Chair Smith stated that agenda items #4A and #4B were on the consent agenda.

Chair Smith recognized public comment from Serena Unrein, the public interest advocate for the Arizona Public Interest Research Group (PIRG) Education fund. She said that in June the Arizona PIRG Education fund and the Southwest Energy Efficiency Project filed joint comments expressing concern whether the Local Transportation Assistance Fund (LTAF) sweeps had been incorporated into the Regional Transportation Plan. Ms. Unrein expressed appreciation to MAG for reevaluating the RTP to include how the loss of LTAF might affect transit. She stated that PIRG is disappointed the Legislature swept the only funds the state provides to transit, and she spoke about the adverse impacts to transit. She said that PIRG provides transportation options to consumers. Ms. Unrein stated that with the problems with lack of infrastructure and funding, the congestion on highways, increased air pollution and asthma in children, and the brown cloud, it is important to provide transit options. She stated that the loss of LTAF sets back transit in Arizona when it should be expanded. Ms. Unrein stated that PIRG urges MAG to find reliable sources for transit funding. Chair Smith thanked Ms. Unrein for her comments.

Chair Smith asked members if they would like to remove any of the consent agenda items or have a presentation. No requests were noted. Councilmember Esser moved to recommend approval of consent agenda items #4A and #4B. Mayor Cavanaugh seconded, and the motion carried unanimously.

4A. Approval of the July 21, 2010, Meeting Minutes

The Transportation Policy Committee, by consent, approved the July 21, 2010, meeting minutes.

4B. Amendment of the MAG Regional Transportation Plan 2010 Update

The Transportation Policy Committee, by consent, recommended approval of an amendment to the MAG Regional Transportation Plan 2010 Update to incorporate public transit service level

adjustments resulting from reductions in revenues, including repeal of the Local Transportation Assistance Fund, that were reflected in public transit service schedules published in July 2010, contingent upon a finding of conformity of the FY 2011-2015 MAG Transportation Improvement Program and the MAG Regional Transportation Plan 2010 Update with applicable air quality plans. On July 28, 2010, the MAG Regional Council approved the Fiscal Year (FY) 2011-2015 Transportation Improvement Program (TIP) and the MAG Regional Transportation Plan (RTP) 2010 Update. In late July, due to reductions in revenues, including repeal of the Local Transportation Assistance Fund (LTAF), transit service level adjustments were finalized by transit service providers and reflected in transit schedules published in July 2010. These changes impacted the transit service levels in the RTP 2010 Update and the corresponding transportation network modeling assumptions. An air quality conformity regional emissions analysis reflecting the new modeling assumptions has been conducted and indicates that the TIP and RTP will not contribute to violations of federal air quality standards. The MAG Transportation Review Committee recommended approval on August 31, 2010. On September 8, 2010, the Management Committee recommended approval.

5. Use of Public Private Partnerships in the MAG Region

Eric Anderson, MAG Transportation Director, first presented a four-minute video produced by Texas that demonstrated P3s in Dallas and an overview of managed lanes. He said that the MAG region is at the beginning stage of considering the leveraging of public dollars. Mr. Anderson expressed that he thought ten to one leverage was quite good – to spend one dollar and receive back ten dollars was a tremendous return. He said that he found the innovations in design concepts used by Dallas very interesting.

Mr. Anderson recapped the last TPC meeting, at which former U. S. Department of Transportation Secretary Mary Peters and John McGee, from the ADOT P3 program, provided updates. He noted that at tonight's meeting, Ken Smith, consultant to ADOT, was present to answer questions. Mr. Anderson stated that he would give a briefing on types of P3 projects with a focus on the managed lanes concept. He said there a number of project delivery models and P3s are about allocating risk between public dollars and private dollars. He said that the private sector has a better ability to evaluate price risk.

Mr. Anderson stated that the MAG region uses design build on a number of projects. He explained that a design build team negotiates a price for the whole package, and he said that the design works almost simultaneously with construction. Mr. Anderson noted that this allows innovative strategies that can result in better projects overall. He added that it also provides an incentive to deliver the project on time and on budget. Mr. Anderson stated that with a full toll road operation might be a full concession agreement, where the public sector does the environmental work and then turns the project over to the private sector. He noted that the construction cost and financial risk are assumed by the private sector. Mr. Anderson mentioned that sometimes these P3 deals have not worked out, for example, the South Bay Expressway in San Diego, which just filed for Chapter 11 bankruptcy. He said that the projections that underpinned the financing were overly optimistic. Mr. Anderson stated that risk is a key element in P3 deals.

Mr. Anderson then addressed program areas that might be considered. He stated that P3s are not new in Arizona and have been used extensively at the universities, for example, for student housing. Mr. Anderson explained that a university would provide the students and sometimes land, and the private sector would provide the funding for building, operating, and maintaining. Mr. Anderson stated that another area for a possible P3 is converting the lighting in the Deck Park tunnel to digital lighting. He said that ADOT might not have the capital funds and a private company could be brought in to do the conversion, with the cost being repaid from the savings on electricity. Mr. Anderson stated that ADOT is also looking at solar applications. He indicated that the freeway management system might be a candidate for a P3, which could result in better technology and less expense to the public. Mr. Anderson noted that there are a number of national companies in the business of travel information systems, and he added that MAG is a subscriber to some of the data generated by private companies. He stated that transit and rail improvements could benefit from a P3, with the revenue generated by freight as repayment. Mr. Anderson stated that toll roads are the most visible examples of P3s. He remarked that there are no toll roads in Arizona, and there is a lot of opposition to them due to people's past experiences in other areas, however, they are now all electronic and there is no stopping at toll booths.

Mr. Anderson then moved on to the concept of managed lanes, which is a freeway within a freeway, with dedicated lanes separated from general use lanes. He noted that dedicated lanes can be constructed to the side of the general lanes, as well as above or below, and are separated by some sort of barrier. Mr. Anderson stated that this provides a tremendous opportunity to the region to not only use private dollars to construct the new managed lanes, but also to rebuild the free lanes. He explained how HOT lanes could allow utilization of unused capacity of HOV/Transit lanes, generate revenue, and reduce congestion on the free lanes. Mr. Anderson advised that because access would be controlled on managed lanes, this would need to be examined. He stated that pricing could be a set price or vary by time of day, for example, a higher rate during the peak travel hours.

Mr. Anderson stated that using dynamic pricing on managed lanes can be set by the levels of congestion to maintain speeds. He noted that San Diego uses dynamic pricing and Dallas is planning to use it. Mr. Anderson stated that the choice is the driver's – whether to pay or not. He showed a rendering of the managed lane system on the North Tarrant Express in Dallas and he said that San Francisco has a planned express lane network they are just starting to implement. Mr. Anderson pointed out a map of the San Diego managed lanes and said that the I-15 managed lanes project is currently up and running. He explained that I-15 is a constrained corridor and not a lot of alternatives exist, which makes it a candidate for a toll facility. Mr. Anderson noted that the excess revenue from the managed lanes goes toward transit operations in that corridor. He explained that building park and rides and direct access ramps were part of the original construction so buses have direct access to the freeway and he added that they pay no tolls.

Mr. Anderson stated that managed lanes can increase the use of HOV lanes by utilizing more of the existing capacity, can expand travel options in the corridor (drivers can choose to use managed lanes or not), and can generate revenue to help pay for corridor improvements. Mr. Anderson stated that San Diego conducted a public outreach program to determine public support for

managed lanes. He said that the majority of those surveyed indicated support, and he added that even those who do not use the managed lanes still support the concept because they reduce the demand on the general purpose lanes. Mr. Anderson stated that the San Diego region has a 40-year half cent sales tax that was passed about the same time as Proposition 400, and the survey conducted as a precursor to the vote showed the same level of support.

Mr. Anderson then explained some policy level concepts: Would HOV users be allowed to use the managed lanes? If so, would the HOV vehicle be required to carry two or three persons? Would trucks or buses be allowed? What speed is desired to be maintained? He mentioned that the video noted the commitment by Dallas to maintain a minimum speed of 50 m.p.h.

Mr. Anderson stated that the recommended action is that MAG conduct a Managed Lane Feasibility Study. He said that they will not know if managed lanes are feasible until there is a factual foundation to identify the costs, revenues, enforcement, and access control. In addition, the requested action is to conduct a public opinion survey. Mr. Anderson noted that historical survey work showed that people in areas that do not have managed lanes oppose them, but once they understood what the concept could do for them, there was acceptance. He reported that MAG did a HOT lane study in 2001, but since then technology has become more robust and dynamic pricing has come into play. Mr. Anderson stated that the study is important so next year the TPC will have factual information on which to base a recommendation.

Chair Smith stated that the presentation went from conceptual to a proposed plan of action. He asked why staff chose managed lanes rather than toll roads. Mr. Anderson replied that since the region does not currently have toll facilities, he thought the managed lanes concept would be a good introduction to tolling. He commented that the region has a good HOV system and there are plans for another general purpose on Loop 202, which has been delayed due to insufficient funding. Mr. Anderson stated that this approach might provide the funding to complete projects that do not have sufficient funding. He gave I-10 at the Broadway Curve as an example, and said that the cost for the entire project is approximately \$1.5 billion and we have about half of those funds needed. Mr. Anderson stated that this concept might provide enough financing to do the entire project and improve traffic flow. He advised that the MAG freeway system is approaching congestion, and when Loops 101 and 202 are complete, massive improvements in capacity will not be possible and a better job of managing traffic will still be needed. Mr. Anderson stated that toll roads might be in the future, but many times they are standalone projects. He stated that HOT lanes and managed lanes impact the current system and more facts are needed to make a decision if they are a viable option. Mr. Anderson stated that toll roads can be up or down, but some aspects of managed lanes might be desired and some aspects might not.

Councilmember Esser asked the timeline for the study. Mr. Anderson replied that staff thinks the study could be done in 12 to 18 months. He added that the study could have more than one phase and they think phase one would give an overall view of the feasibility, costs, how it would work from a conceptual level. If the decision is made to move forward at that point, additional work might be required to move on to phase two. Mr. Anderson reported that the study conducted by

San Francisco started in 2005 and they are now in phase four. He commented that they do not want to commit to implementing something that might be regretted later.

Mr. Berry stated that he was very interested in this subject and thought the presentation was very thorough. He suggested that a set of guiding principles to constrain the scope of the study should be drafted before conducting a study. Mr. Berry gave as an example the specific projects presented to the voters that would be funded if Proposition 400 passed. He remarked that the world has changed since Proposition 400 and the funds anticipated will not be generated. Mr. Berry expressed that he thought before embarking on a study, the decision should be made whether we are dedicated to a free system or we should go back to the voters and say we are going to have to charge for certain types of uses on the system. He stated that there in his experience, there is sometimes the option to be able to pay to get to somewhere more quickly, but in other areas there is not really an option. Mr. Berry stated that another question is what to do with the revenue collections – are they applied to that facility or to the system – for example, San Diego put extra revenue into transit instead of road improvements. Mr. Berry stated that these are some examples of guiding principles that the TPC should consider before embarking on a study and those guiding principles would help focus the study.

Mr. Anderson stated that Mr. Berry had raised good points, and the overarching question seemed to be if we are committed to a free system or are we going to use tolls to finance parts of the system. He said that if the question is the amount of revenue that could be generated by managed lanes, he did not have an answer and having that discussion in a vacuum is difficult to have. Mr. Anderson stated that his recommendation is to move forward with a technical study which does not mean there would be a commitment to managed lanes or toll roads. He stated that he thought there was not enough information to make an informed decision. Mr. Anderson stated that it is incumbent upon staff to ensure that the facts are understood and that was the essence of the recommendation.

Mr. Berry expressed his support for a study, it was just a question of which to do first. He stated that questions such as what should be off the table, for example, tolling charges on certain segments of the freeway system that were committed to being free of charge. Mr. Berry stated that the study could recommend a toll on a road and the TPC could decide against that recommendation because it breaks the agreement with the voters. He remarked that policy issue discussion, which would not be final, might help focus the study.

Chair Smith asked Mr. Anderson if the survey would cover the issues Mr. Berry raised. Mr. Anderson replied yes, partially, it could give direction on the public's position on issues. Mr. Anderson stated that he was a big supporter of policy and discussion of policy issues could take place in October.

Mayor Rogers expressed her agreement with Mr. Berry. She indicated that when she first saw this, she thought it was to fill Proposition 400 and she now wondered if this was another plan. Mayor Rogers stated that discussion of filling Proposition 400 is needed. She asked for clarification of

what segments the network analysis would address. Mayor Rogers also mentioned that clarification of community input is needed.

Mr. Anderson stated that there are a lot of issues, no question about that, but he felt the process needed to begin. He said that his concern is with the economy – are we realistically looking at going back to the voters to fill the gap, wait until the economy recovers, or look at other options to help fill the gap? Mr. Anderson remarked that if the economy were robust, we might be having a different discussion, but it is the consensus of the experts who say the economy will not come back to a normal pattern, but not necessarily the high growth that we have seen, until 2014 or 2015. He stated that it is appropriate for the TPC to have that discussion, since it is the body who developed the Plan.

Councilmember Esser expressed his agreement with the speakers, but noted that he has been in this business for 50 years and everything has changed. He stated that he did not want to stop or delay the planning process. Councilmember Esser stated that the process can be halted when you want, but this is planning and it needs to start.

Mayor Cavanaugh expressed his appreciation for the below-grade road option depicted in the Dallas video. He said that P3s could present tremendous values because I-10 and US-60 both need increased capacity. Mayor Cavanaugh stated that the problem to overcome is the cost and acquisition right of way and to those who say building a tunnel or below ground facility is expensive, the public/private partnership becomes interesting in terms of freeways and transit. Mayor Cavanaugh stated that moving light rail and commuter rail past 79th Avenue has not really been discussed. He expressed that attention should be focused on the option Dallas implemented to build freeway lanes below ground. Mayor Cavanaugh stated that this option could perhaps be applied to rail as well, to justify the cost. He added that the land is already owned. Mayor Cavanaugh stated that he thought more giant steps are needed now on the feasibility of that option and it deserves attention and discussion.

Mr. Arnett asked if the cost and source of funding for the study had been identified. Mr. Anderson replied that in 2005, San Francisco spent about \$375,000 for phase one, and spent close to \$1 million by the end of the study. He indicated that his estimate of the proposed study was in the \$300,000 to \$500,000 range, depending on the final scoping and phasing. Mr. Anderson stated that phase one will provide key information and data for a policy discussion on whether to move forward or not. He stated that Proposition 400 study money would fund this study.

Mr. Smith stated that he did not see the managed lane study as a substitute for policy discussion which could be incorporated into the study and sharpen the debate because the impacts of policies will be apparent. Her commented that if the study is not done, this is an amorphous concept.

Chair Smith stated that the question is what is the Proposition 400 system. This primary objective is to increase capacity and go beyond the Proposition 400 system, which will not be sufficient in the long term. Chair Smith stated that when Dallas reached capacity, it made the decision to build managed lanes to expand capacity. He said that the argument could be made that these options are

expanding what was already approved and funding gaps might also be addressed by leveraging private dollars, which is not included in the Proposition 400 program. Chair Smith stated that it goes back to the basic question if this is a free system or not. He commented that he thought the 801 was completely off the scope; it was plug the gap discussion but not expanding the system.

Mr. Anderson stated that the carrying capacity of the entire system can be increased through managed lanes. He said that operating strategies is the next wave, and he noted that Seattle just put in a sophisticated active lane management concept where speeds vary by lane depending on congestion. Mr. Anderson stated that the proposed study would provide the foundational information needed to move forward. He reported that some managed lanes projects do not make money or even cover operating costs. Mr. Anderson stated that this study could say managed lanes could help manage the system but the ability to leverage might not be there due to travel demand.

Chair Smith commented that the ability to leverage would be there, it just might be a lower ratio. Mr. Anderson commented that the policy discussion on the study results might say a concept is a good idea or it does not work here.

Chair Smith asked Mr. Anderson if staff needed direction tonight or come back to the next meeting with more information. He said that generally he sensed there was a feeling this was great but still some questions.

Mr. Anderson replied that if the TPC recommended moving forward that a couple of months would still be needed to develop the scope of work and address administrative tasks, such as amending the MAG Work Program. He stated that a proposed scope of work and policy discussion could take place at the October meeting.

Supervisor Wilson asked if there was an idea of how long a facility would need to be shut down to build managed lanes.

Mr. Anderson replied that he could not answer that, however, if managed lanes on I-10 under a P3, for example, are determined to be feasible, then one negotiable item is traffic control – how many lanes are required to be kept open during construction. He noted that he thought ADOT does this now. Mr. Anderson advised that any construction project will cause impact to traffic.

Supervisor Wilson commented that as this progresses, he thought more issues could arise that will require discussion.

Chair Smith asked if formal action was needed by the TPC or staff could proceed on the scope for the next meeting. He said that he had a sense the idea was accepted by the committee, but it was too broad, unless someone wanted to make a motion. Mr. Anderson replied that staff could work on the scope and bring it back to the next meeting.

6. Proposal to Advance the Construction for a Portion of the Williams Gateway Freeway

Mr. Anderson stated that the acceleration the design, right of way and construction of an interim segment of the Williams Gateway Freeway from the Santan Freeway to Ellsworth Road was originally approved by the Regional Council in January 2009. He indicated that in May 2009, the construction element was dropped and the Regional Council approved advancement of the design and right of way only. Mr. Anderson then explained the access that would be provided by the project. He said that Ellsworth has poor access from the Santan Freeway and with the construction of the Williams Gateway Freeway, this project was designed to provide that access. Mr. Anderson stated that the City of Mesa now would like to advance the construction of the project. He reported that the final design of the project is ready to begin and the request is to advance the construction of the interim facility from FY 2016 to FY 2012. Mr. Anderson stated that Mesa proposes using the remaining \$2 million of advance right of way funds for interest expense.

Mr. Anderson noted that previous Regional Council action approved the design and interest expense. Mr. Anderson stated that the interest expense would be funded in part using the \$10 million set aside by the State Legislature that Mesa secured in 2008. He noted that plan is to divide the remaining net interest expense fifty-fifty between Mesa and the MAG program, which is in accord with the approved MAG acceleration policy.

Mr. Anderson then reviewed the financial aspects of the advancement by saying that the project is currently programmed for \$158 million, but due to anticipated lower costs, the estimate is now about \$118 million to \$120 million. He noted that Mesa is proposing to issue Highway Project Advancement Notes (HPANs) in the amount of \$130 million to ensure sufficient funds are available for construction. Mr. Anderson stated that a 4.25 percent interest rate was used for calculations, but with current market conditions, it could be half that rate. He stated that a total of \$12 million is currently available to defer some of the \$23 million in interest expense and the remaining interest expense of \$11.2 million of interest expense that would be shared equally between the City and the program, according to the MAG acceleration policy. Mr. Anderson stated that the interest expense is likely to be significantly lower.

Chair Smith thanked Mr. Anderson for his report and asked members if they had questions.

Mayor Rogers commented that the request brought back memories, but she had no hard feelings. She expressed that she was glad they could understand the policy and were able to capitalize on it. Mayor Rogers also expressed appreciation for the effort.

Chair Smith stated that one reason for accelerating this project is the tremendous growth of the Phoenix-Mesa Gateway airport, which is running ahead of projections. He noted that the airport is on pace for surpassing one million passengers this year. Chair Smith stated that 24 cities are now served by the airport, and he noted that Allegiant Airlines tracks the origins of the passengers and was surprised at the large number of outbound passengers from Arizona. He explained that initial estimates said that passengers would be clustered from the East Valley or Pinal County, and while they represent a large share, passengers have come from all over the Valley and even Tucson.

Chair Smith stated that it has become not only a successful reliever airport, but also a successful airport in its own right because it provides nonstop service to destinations not served by Sky Harbor airport. He stated that this has caused the airport to advance its timeline for building the ultimate terminal. Chair Smith stated that the access to the airport from the East Valley and Loop 202 is very limited. He stated that providing access to the airport is the primary driver of this request, in addition to the \$30 million to \$40 million savings in construction costs if the project takes advantage of the economic climate now rather than waiting.

Councilmember Sellers moved to recommend approval of the Mesa request to advance the construction of an interim connection of the Williams Gateway Freeway between the Santan Freeway and Ellsworth Road by approximately four years, to be incorporated into the MAG FY 2011 to FY 2015 Transportation Improvement Program for FY 2012 and the Regional Transportation Plan 2010 Update for an air quality conformity analysis, and authorize the MAG Executive Director to enter into an agreement with ADOT and Mesa. Mr. Arnett seconded, and the motion passed unanimously.

7. State of Transit in the Region

Eileen Yazzie, MAG Transportation Program Manager, gave a presentation on the prioritization guidelines for transit programming. Ms. Yazzie reported that on July 28, 2010, the MAG Regional Council approved the Draft FY 2011-2015 MAG TIP and that the programming of preventative maintenance for transit be reviewed for potential amendments/administrative modifications no later than December 2010. She stated that the region has programmed almost \$30 million of federal funds in the FY 2011-2015 TIP for regional preventative maintenance, and noted that this was done as a placeholder with the understanding that prioritization guidelines for federal funds would be established in the future through the MAG committee process.

Ms. Yazzie explained that regional prioritization guidelines were developed by the Regional Public Transportation Authority (RPTA) in the early 2000s and for the American Recovery and Reinvestment Act (ARRA) unspent funds, however, they are out of date and not applicable with the current federal fund program.

Ms. Yazzie stated that the purpose of this presentation was to receive policy direction to develop regional prioritization guidelines for programming federal funds. Ms. Yazzie displayed a chart that listed programming responsibilities for federal funds, and she commented that MAG and RPTA collaborate on programming federal funds for transit.

Ms. Yazzie said that Senate Bill 1063, enacted in April 2010, defines the responsibilities of RPTA and MAG for implementing the public transportation element of the Regional Transportation Plan, and she noted that MAG must approve substantial changes to the budget that materially affect the corridor performance or change corridor service. Ms. Yazzie stated that a Memorandum of Understanding, signed in April 2010, replaces the 2007 Resolution and sets forth the basic structure for cooperative planning and decision making regarding transit planning and programming between MAG, RPTA, METRO, the City of Phoenix, and all participating local government agencies.

Ms. Yazzie stated that MAG is responsible for programming \$78 million annually of federal funds for transit. She noted that out of this amount, only about \$1 million can be used for the operations of buses and light rail. Ms. Yazzie added that Congestion Mitigation and Air Quality funds can be used toward expansion of service.

Ms. Yazzie stated that RPTA has its programming guidelines and MAG still needs to develop its own guidelines. She pointed out that this results in programming gaps and she noted the unprogrammed amounts: in FY 2011, about \$11.8 million, in 2013 about \$11.6 million, and in 2015 about \$6.4 million. Ms. Yazzie added that in 2012, they were able to fully program the funds. She stated that the unprogrammed amount totaled about \$30 million, which was programmed as a placeholder for preventative maintenance.

Ms. Yazzie reviewed the old guidelines included in the agenda packet and noted that the decision was made to freeze the amount dedicated to preventative maintenance. Ms. Yazzie commented that every dollar in preventative maintenance reduces the available capital funds. She stated that the freeze on preventative maintenance allowed the construction of park and rides and transit centers in the region. Ms. Yazzie stated that about \$60 million in ARRA funds funded some park and rides.

Ms. Yazzie then addressed Americans with Disabilities Act (ADA) Transit. She said that federal 5307 funds allow 10 percent of an allocation to be used for ADA Transit support including funding operations and preventative maintenance. Ms. Yazzie stated that this is currently not addressed in the prioritization guidelines.

Ms. Yazzie stated that she would be returning to the TPC with additional information on the guidelines at a future meeting. She advised that modifications to the guidelines could affect projects, but could end up benefitting transit customers with a more focused approach for preventative maintenance and ADA. Ms. Yazzie noted that they will continue to work on the programming guidelines with the transit operators and will be back to the Transportation Policy Committee and Regional Council in October.

Chair Smith thanked Ms. Yazzie for her report and asked members if they had questions.

Mayor Rogers asked if the programming guidelines would go through the MAG Transit Committee. Ms. Yazzie replied yes, the Transit Committee is the technical advisory committee tasked with hearing the guidelines first, which will then proceed through the Transportation Review Committee, Management Committee, Transportation Policy Committee, and Regional Council.

Mayor Rogers said that there has been conversation that the Transit Committee might not be a part of the process and she expressed that she thought it was critical its involvement remains. She stated that this is the reason the committee was created.

Mr. Berry stated that three firewalls were established for Proposition 400 – freeways, transit, and streets – and there was agreement that all of the funds, whether federal, state, etc., that came into

the system would be spent on what was laid out in Proposition 400. He asked if that guidance was not specific enough and that was the reason for the update.

Mr. Anderson stated that the Proposition 400 transit program was not that detailed, and, in addition, it does not address today's issues. He stated that the transit program was based on local revenue to provide operating funds, but the cities had to cut back on costs, which impacted the transit program.

Mr. Berry asked for clarification that preventative maintenance meant keeping a vehicle in repair before it breaks because that is less expensive. Ms. Yazzie replied that was correct, and she offered to bring back more detailed information on what preventative maintenance included. Ms. Yazzie stated that the buses are on a maintenance schedule. She stated that in 2009, only \$6.4 million out of \$50 million of 5307 funds were allocated to the preventative maintenance category. Ms. Yazzie reported that a survey of transit operators showed a total of \$44 million is spent annually for preventative maintenance in this region. She added that increased spending on preventative maintenance translates to a lower cost per mile. Mr. Berry expressed that he thought preventative maintenance usually has a very high payback.

8. Update on Exceptional Events and MAG Five Percent Plan for PM-10

Lindy Bauer, MAG Environmental Director, provided a report on recent events regarding the MAG Five Percent Plan for PM-10 (Plan). She first gave a recap of what has taken place to date. Ms. Bauer stated that MAG submitted the Plan on time to the Environmental Protection Agency (EPA) on December 31, 2007. She stated that the Plan was required to show PM-10 emissions reductions of five percent per year until the standard is attained, which was planned for 2010. Ms. Bauer stated that three years of clean data at the air quality monitors are required for EPA to say that the MAG region has attained the standard.

Ms. Bauer noted that the Arizona Department of Environmental Quality (ADEQ) analyzes exceedances that are exceptional events and prepares the documentation. She said that ADEQ assured MAG 2008 and 2009 had clean data and the exceedances were due to high wind exceptional events. She advised that Congress allows for high wind exceptional events because the wind cannot be controlled.

Ms. Bauer stated that the EPA was late in taking action on the plan and missed the June 2009 deadline. Due to the EPA's failure to take action, the Arizona Center for Law in the Public Interest (ACLPI) filed a notice of intent to file a lawsuit against EPA on August 2, 2009. Ms. Bauer noted that after the ACLPI filed the notice of intent, EPA began to review the plan that MAG had submitted in 2007 and questioned the four high wind exceedance events at the West 43rd Avenue monitor. Ms. Bauer stated that when the EPA began to question the events, MAG and ADEQ submitted scientific evidence that the events were due to high winds. She noted that MAG's consultant found that the events were due to high winds, and she noted that conditions at the monitor include a fine, silty soil that is picked up by the wind.

Ms. Bauer reported that in December 2009, the ALCPI filed a lawsuit to force EPA to take action on the Plan because the EPA still had not taken action on the Plan. She stated that on May 25, 2010, the EPA came to a meeting in Phoenix and announced nonconcurrence with four high wind exceptional events at the West 43rd Avenue monitor. She advised that only three exceedances are allowed per monitor, and the fourth exceedance means a violation against the region. Ms. Bauer advised that at the meeting, the EPA Region IX Administrator admitted the EPA Exceptional Events Rule is flawed. She reported that Westar, a coalition of 15 western states, has been expressing its concerns with the Rule since September 2009 because its implementation is unclear.

Ms. Bauer stated that MAG asked about the timing and was told by EPA they could not discuss the issue because they were in confidential negotiations with ACLPI. Ms. Bauer stated that on June 23, 2010, the EPA entered into a proposed consent decree with the ACLPI to propose action on the Plan on September 3, 2010, and finalize action on January 28, 2011. She noted that on August 27, MAG, ADEQ, Maricopa County, and the Salt River Pima-Maricopa Indian Community submitted comments on the proposed consent decree timetable and requested a six month delay on the final action to allow time for EPA to consider the scientific data that had been submitted. She noted that in addition, the Arizona Congressional Delegation also communicated with EPA by letter and teleconference. Ms. Bauer stated that EPA responded with a letter to ADEQ indicating that the proposed action would occur on September 3, 2010, regardless. Ms. Bauer commented that the process conducted by EPA has been unfair.

Ms. Bauer stated that on September 3, 2010, EPA proposed to partially disapprove and approve the plan, which has the same consequences as a disapproval. She noted that approvability issues were identified in EPA's notice, and she advised that the approvability issues did not cause the high wind exceptional events at the West 43rd Avenue monitor. She stated that so far in 2010, the MAG region has had no exceedances at any of the monitors.

Ms. Bauer continued her report by saying that ADEQ and MAG believe that the region had its first year of clean data in 2008. She commented that EPA disagrees, but has not considered all of the scientific information submitted. Ms. Bauer stated that at risk are \$1.7 billion in FHWA funds in the MAG Transportation Improvement Program (TIP) and the \$7.4 billion TIP itself. She advised that a conformity freeze on the TIP could occur by February 28, 2011. Ms. Bauer then mentioned that \$1.7 billion equates to 61,000 jobs and \$7.4 billion equates to 215,000 jobs. Ms. Bauer remarked that unless the flawed Exceptional Events Rule is fixed, this issue will remain unresolved. She said that MAG cannot control high winds, and paving the Salt River is not an option.

Ms. Bauer then reviewed the EPA proposed partial approval and disapproval of the Plan. She indicated that EPA proposed disapproval of the 2005 baseline emissions inventory, which is the cornerstone of the Plan. Ms. Bauer stated that EPA indicated that the modeling attainment demonstration done by MAG cannot be approved if there is no attainment at the monitor. She commented that this is a very important piece and ties to EPA nonconcurrence with the four high wind exceptional events. Ms. Bauer also noted that the EPA also has issues with the five percent reduction in emissions calculation. Ms. Bauer stated that Maricopa County prepares the baseline

emissions inventory which includes the sources and the percent contribution coming from those sources. She explained that the County prepared the emissions inventory using EPA guidance, but the EPA says it has new guidance and disagrees with the County's calculations. Ms. Bauer displayed a chart of the PM-10 emissions inventory and pointed out that the Plan, with 53 measures, includes all sources. She said that the EPA also proposed disapproval of the annual emissions reductions to ensure attainment and the extra contingency measures, and the 2010 motor vehicle emissions budget, which was used to demonstrate conformity of the TIP and RTP. Ms. Bauer remarked that if conformity cannot be shown, the projects cannot be built.

Ms. Bauer stated that EPA proposed approval of 20 measures in the Plan, which were mandated by Senate Bill 1552. She added that EPA also proposed approval of the Agricultural Best Management Practices Guidance Booklet and Pocket Guide. Ms. Bauer stated that the EPA proposed limited approval and disapproval of agricultural regulations, which is the same as a disapproval.

Ms. Bauer then addressed the consequences of Plan disapproval. She advised that a conformity freeze would occur 30 days after final disapproval is published in the Federal Register, then only projects in first four years of the conforming TIP and RTP can proceed. She said that this means no new TIPs, RTPs or projects until a Five Percent Plan revision is submitted that fulfills the Clean Air Act requirements, EPA finds the conformity budget adequate or EPA approves the submission, and conformity to the plan revision is determined. She gave as an example, the MAG region could not take advantage of new economic stimulus funds if they are provided because no new projects that require a conformity determination could be added to the TIP or RTP.

Ms. Bauer stated that the Clean Air Act sanctions would be imposed if the problem is not corrected within 18 months from disapproval action, which would result in tighter controls on major industries, and if not corrected within 24 months after disapproval action could be the loss of federal highway funds. Ms. Bauer advised that the imposition of highway sanctions may trigger a conformity lapse and major projects in the \$7.4 billion TIP could not proceed.

Ms. Bauer said that a new emissions inventory was completed by the County on June 30, 2010. She said that EPA will be consulted if the inventory agrees with their guidance and whether MAG should begin using it. She stated that MAG will need to complete a Best Available Control Measure Analysis and look at measures from other serious PM-10 areas that have been approved and compare MAG's Plan to those measures. Ms. Bauer stated that MAG may need to add more measures to reduce emissions by five percent per year until attainment, as measured at the monitors, and will need three years of clean data at all of the PM-10 monitors.

Ms. Bauer displayed a timeline of the actions on PM-10 in the MAG region. She noted that MAG was on time submitting the Plan to EPA, but by the time EPA takes final action on the Plan, more than three years will have elapsed, which is very late.

Chair Smith thanked Ms. Bauer for her report and asked members if they had questions.

Supervisor Wilson thanked Ms. Bauer for the presentation. He added that the topic had been covered in great detail and people would be able to understand this complex issue.

Ms. Yazzie continued the presentation and gave an overview of the impact of a disapproval of the Plan on the TIP and RTP, which were recently approved for conformity by the Federal Highway Administration and the Federal Transit Administration.

Ms. Yazzie stated that upon disapproval, a conformity freeze would follow in 30 days. Clean Air Act sanctions would be imposed if the problem is not corrected within 18 months from disapproval action would result in tighter controls on major industries, and if not corrected within 24 months after disapproval action could be the loss of federal highway funds. Ms. Yazzie reviewed the EPA's timeline of actions.

Ms. Yazzie explained the conformity analysis, which uses the information from the transportation model. The first part includes regionally significant projects and federally funded projects that are part of the one-mile grid, transit included. She explained that the projects go into the transportation model, the transportation model is run then it is fed into the environmental model and the conformity analysis is determined.

Ms. Yazzie then addressed what could proceed in a conformity freeze: projects in the first four years of the TIP (approximately 600 to 700 projects); exempt projects; and new exempt projects, such as safety, repavement, mass transit, operations, bicycle and pedestrian, planning, and design work. She advised that some administrative modifications to the TIP, such as funding amounts, advancements, deferments, or descriptions, could still proceed.

Ms. Yazzie then covered what would not be allowed in a conformity freeze: no new TIP reports (the TIP was just approved in July 2010 and a new one is not anticipated until 2013); no new projects can be added to the TIP that affect conformity; no new construction projects; and no amendments to projects that trigger conformity determination, such as scope changes or location changes.

Ms. Yazzie stated that the transportation programming goal is to ensure that the FY 2011- 2015 MAG TIP and 2010 RTP report the current status of regionally significant projects and to make necessary project changes prior to January 28, 2011. Ms. Yazzie stated that staff have been working with the member agencies on project changes. She advised that MAG needs to know of any project changes by November 4 to meet the timeframe.

Chair Smith thanked Ms. Yazzie for her report. No questions from the Committee were noted.

9. Request for Future Agenda Items

Topics or issues of interest that the Transportation Policy Committee would like to have considered for discussion at a future meeting will be requested.

No requests from the Committee were noted.

10. Comments from the Committee

Topics or issues of interest that the Transportation Policy Committee would like to have considered for discussion at a future meeting will be requested.

No comments from the Committee were noted.

Adjournment

It was moved by Mayor Rogers and seconded by Mayor Cavanaugh to adjourn the meeting at 5:40 p.m.

Chair

Secretary